

RUMSON ZONING BOARD OF ADJUSTMENT
JUNE 17, 2014
MINUTES

Chairman Conklin called the regular meeting to order at 7:30 p.m. with the Pledge of Allegiance. The Roll was called with the following members present: Conklin, Duddy, Seaman, Sylvester, Blum, Brodsky. Also present: Bernard Reilly (Board Attorney), Fred Andre (Zoning Officer), State Shorthand.

The requirements of the Open Public Meetings Act were stated as met.

Mr. Andre was sworn in at this time.

Prestige Equities LLC, 59-62 Carton St.

This application will be carried to the September meeting (9/16/14). No additional notice will be required.

Yellow Brook Property Co., LLC, 73 Rumson Road

Robert Curley, attorney, appeared on behalf of the applicant. They were here last September for a variance, which was granted. They would now like to revise the driveway design. Mark McCabe, a partner in the property, was sworn in and explained their proposal to revise their driveway design, due to the dangerous situation on the site. They would like to move the driveway to the east and provide a 3' setback from the property line to the driveway. There is now a paved apron on each side, and they will be removing some of this pavement and restoring it back to a natural, grass area. The driveway will be gravel. This revision will increase the driveway area by 600 sq. ft., but it will be impervious surface. They will be lining the driveway with Belgian blocks, but there are no drainage concerns.

William Brooks, testifying as Borough Forrester, was sworn in and stated that the moving of the driveway will impact an existing Copper Beech tree; however, he agreed that there is a dangerous situation with the current driveway, and moving the driveway over 3' will provide a safer design. He thinks the revised plan makes sense, and it is the best solution for the property, in his opinion. The proposed 12' apron will be a good solution, and he does not think there will be a problem with the existing tree. Mr. Brooks does not think any special consideration will need to be afforded to protect the tree during construction, and the design will be the safest configuration on the lot.

There were no questions or comments from the public.

Chairman Conklin expressed his opinion that the new plan makes sense and is the right thing to do.

Mrs. Seaman agrees, and likes the fact that they are taking care of the beautiful tree, although it is not a significant specimen tree, according to Mr. Brooks.

Mr. Blum asked about the offset from the driveway to the property line, and Mr. McCabe said they are providing a 3' offset. Mr. Blum asked if the ordinance requires 5', and Mr. Andre stated that 3' is the requirement for this zone.

Mr. Sylvester moved to approve the revised plan, and Mr. Brodsky seconded.

Roll Call Vote: Ayes – Conklin, Brodsky, Blum, Seaman, Duddy, Sylvester

Nays – None

Motion carried.

James & Marie Orsini, 2 Waterway

Philip SanFillipo, attorney, appeared on behalf of the applicants, who would like to construct a new single-family residence and in-ground pool. He has three witnesses to testify, and all were sworn in at this time:

- Michael Levkulich, landscape architect;
- Charles Lindstrom, site engineer;
- David Lynch, architect.

The Board accepted their qualifications.

Mr. Levkulich, via the tree mitigation plan submitted (A-1), explained their plan for the removal of trees for the construction of the house. They have also presented a landscape design. He has reviewed the site and the plan provided this evening with Mr. Brooks, Borough Forrester. He explained the plan that shows the trees to be removed, which includes the calculations per the ordinance of what tree mitigation would be required in order to comply with the ordinance. As a result of this requirement, their exhibit shows their tree mitigation plan, which exceeds the requirement. They show some shade trees, ornamental trees, and evergreen trees along the property line to provide a buffer between properties.

A colored rendering shows the proposed and existing trees and the proposed landscaping for the site. They made an effort to replace trees that were lost after Sandy. It is his opinion that the objectives of the ordinance as to tree mitigation have been met with this plan, and he believes Mr. Brooks concurs.

Mr. Duddy noted that he lives nearby and is familiar with the property. He questioned an existing birch tree on the property, which looks like it is ready to fall over. Mr. Levkulich said that the trees that are proposed to be removed are in the area of the construction, but if this tree needs to be addressed, they will be sure to do this. Mr. Duddy likes the proposal for the tree plan.

Mr. William Brooks, Borough Forrester, was sworn in for testimony. He stated he met with the applicants on the site and noted trees that were removed prior to this application. He feels they provided an equitable way to consider these trees and come up with a fair way to provide additional trees. He likes their plan as to tree material, although he might suggest some that might be better than honey locusts, as suggested. He would be willing to speak to their landscape architect to further discuss this. The trees already removed are being replaced in an acceptable manner for the borough, in his opinion. There should be a tree permit filed for the trees that had already been removed after the storm. They are proposing 27 new trees.

Mrs. Seaman asked about the wires, and if the trees proposed would affect them in a storm. Mr. Brooks said there is one pin oak that could possibly be affected, although it is already over 100 years old.

There were no other questions or comments from the public for Mr. Brooks.

Mr. SanFillipo was asked why the applicant did not file for a permit to remove the trees after the storm, and he said they probably were not aware of this requirement.

Charles Lindstrom, site engineer, stated they were asked to provide the plot plan for the new house and pool. The variances include:

- Secondary lot frontage along the right of way – 200' required / 190.64' existing (no additional land is available).
- Corner lot shape (120' required / 72' provided) – existing condition.
- Front setback – 75' required / 60.5' proposed – The house that was removed had a front setback of 45.4'. There are three homes across Waterway which have setbacks of approximately 45' – 60' – all deficient from the ordinance and similar to what they are proposing. It is his opinion that the proposed setback will not be out of scale with the other homes.
- Secondary front setback (55' required / 48' proposed). They are required to measure from the high water line, and they would need to redesign the home to comply with the ordinance.

The size of the existing dwelling is 4,200 sq. ft., and the proposed dwelling is slightly smaller. It is his opinion that the variances can be granted without substantial detriment to the public good, as the house is commensurate with the area and will meet all flood standards. The grading was described, noting their proposal for landscape rain gardens in the yard area to accept runoff from the site and the roof. This is an acceptable method for storm water mitigation, in his opinion, and he sees no problems when they go for their CAFRA permits.

Chairman Conklin asked about grading, and Mr. Lindstrom said they will be raising the house and pool area, but the grade around the house is 5' – 6', and they are proposing a new grade of approximately 6', so he does not think it will pose a problem. The existing lot size is 1.04 acres.

Chairman Conklin asked about Mr. Levkulich's testimony regarding three nearby properties with similar setbacks, and Mr. Lindstrom explained their location on the other side of Waterway. Chairman Conklin noted that the houses mentioned were all older homes, and this applicant is starting from scratch. Mr. Lindstrom showed the Board a Google Earth map, which shows the houses he is referring to, as well as others in the neighborhood (A-2).

Mr. Lynch, architect, said he prepared the plans and has visited the site. He explained their assignment to design a smaller home, such as a ranch style, with four bedrooms. After analyzing

the lot, they decided it would need a two-story home to provide the required bedrooms. The existing residence was heavily storm damaged and gone, and using that footprint would not work for them.

Chairman Conklin asked about the challenges of the lot and how that would affect their providing a conforming house. Mr. Lynch noted the difficulty they had due to the shape of the lot, which is triangular in shape.

They are not proposing gigantic rooms. The shape of the lot along with the tree requirement, driveway, etc., caused them to design this home to fit their needs. The shape of the lot affected their ability to comply with the ordinance. In attempting to comply with the ordinance, and the fact that they have two frontages as well as water frontage, also affected their design. The former residence was 4,284 sq. ft. in size, and the proposed house is slightly smaller in footprint area. The total ridge height is 43.64', which is approximately 37.6' from the average ground height in this area. He believes the design of the house is in keeping architecturally with the other homes in the area. Via three-dimensional drawings, he showed the Board the elevations of the home from the water and front views. The design will be a shingle-style with an asphalt roof.

Chairman Conklin asked about moving the setbacks, and Mr. Lynch noted how this would affect the tree area, decrease the setback to the water, etc. He does not think this house is too large for the neighborhood.

Mr. Duddy noted that are proposing 46' to the back, and the garage is proposed to face the west. If they turned the garage to face the north, they would not need as much driveway area. Mr. Lynch said this would create difficulty in turning areas and also affect the vegetations. The more they push to the north and west, the more they will affect the trees.

Mr. Sylvester asked how deep the house will be, and Mr. Lynch said the house is 60' deep, much of which is the great room and open porch. He feels the roof design is less massive then if it were straight gables, which would make it look much taller. They comply with all building coverage and floor area requirements.

Mr. Andre said they would not need a variance for the garage if they faced the doors to the north. It was suggested that changing the orientation of the garage doors would allow for more setback area, although it would shift the driveway and affect the vegetation. Mr. Lynch does not believe that they can shift the garage to provide a conforming setback.

Frank Cummings, 4 Waterway, was sworn in and testified that he told the Orsini's about the tree requirements. Many of the trees were removed well after the storm, and were not dead but were taken out in violation of the rules, in his opinion. He stated that his property is prone to flooding. He thinks to get this application close to compliance, the foundation will need to be raised to 10', which will afford a much larger structure close to his property. He thinks the construction will adversely affect his property. He thinks it is ridiculous, in his opinion, to put in such a large structure on the lot. He does not think the variances should be approved, as it is in total noncompliance. The Board noted that any approval would also be subject to CAFRA approval.

Mr. Sylvester asked Mr. Cummings if he agreed with the tree plan proposed. Mr. Cummings said he would prefer a smaller house, and he also questioned the proposed drainage plan.

Mr. Duddy commented that the prior house was a ranch style, and the size seemed much less than 4,200 sq. ft., in his opinion. Mr. Lynch said this was based on the building coverage, including the garage, roof overhangs, etc. Mr. Cummings does not think the house was 32' high, and Mr. Duddy agreed. Mr. Lynch pointed out that the proposed building complies with the current height ordinance.

There were no other questions or comments from the public.

Mr. Lynch said the house is 110' along the side of the garage, and Chairman Conklin pointed out that this length is 60' off the road. He thinks they can make it conforming, even though it may change some of the dynamics of the interior of the house. He thinks they can change the design and make it conforming. He also is not happy with the fact that the applicant removed the trees without a permit. He thinks it is possible to make the home conforming.

Mrs. Seaman also has a problem with the trees being removed without a permit, even if they were not aware of this requirement. She is also not sure the drainage plan is adequate for such a low area.

Mr. Sylvester thinks there is some hardship, because of the shape of the lot, but he agrees with Chairman Conklin that there is an opportunity to mitigate some of the circumstances and still preserve the design. He also thinks it is a large house.

Mr. Blum does not think this is a bad plan. He does not think it is possible to build a reasonably-sized house within the setback lines. The variances may be able to be reduced somewhat, but they are increasing the existing setbacks. The 110' length does not bother him, because the prior house was 90' in a different direction, although it was a ranch. Moving the house west and north to try to conform to the setback would raise the issue of interfering with the better trees on the property. Most of the trees on the east side are not desirable. He thinks the applicant can improve the setbacks, although they are not exceeding the ordinance with the size of the house, height, etc. Anything built on this lot will need to conform to the flood requirement, although this is a separate issue from grading. The permitted height could approach 40', and anything that is built here could reach this height. Re-examining the plan could reduce the setbacks, but he would allow some setback variance on the lot.

Chairman Conklin agrees but thinks the 110' length is too much.

Mr. Duddy agrees with Mr. Blum in that the height is allowed and will occur with whatever is built. Because of the shape of the lot, he does not think there is any way to comply. He thinks the house should be farther back from the road, and the way the driveway wraps around will affect the site line for the neighbor. He does not think the house is too big. The slope of the lot will allow most of the water to drain toward the river. He does not think it is too much house too close to the road. He would like to see them maximize the front setback.

Mr. SanFillipo asked that the matter be carried to the next meeting. This was approved, with no further notice required. Suggestions were heard regarding the orientation of the house, etc. The application will be carried to the July 15th meeting. Any revised plans must be submitted at least 10 days before that meeting.

Frances Mayo & Lisa Tice, 57 East River Road

Mrs. Tice was sworn in and explained their plan to expand their mud room. She showed the Board photos of the area that needs a new foundation. She would also like to enlarge the kitchen. The addition will extend 4.5' toward the west. The one-story addition will be a total of 20' wide. They have lived on the property since 1988. The existing sheds are on a slab. The original rear setback is 22.7' where 35' are required. The new addition will be set back 27'.

There were no questions or comments from the public.

Mrs. Tice was asked if they could move the small Rubbermaid shed to 5' off the property line. Mrs. Tice said they could do this, or they may just get rid of it. This will be a condition of approval.

Mr. Sylvester moved to approve the application, and Mrs. Seaman seconded.

Roll Call Vote: Ayes – Conklin, Brodsky, Blum, Seaman, Duddy, Sylvester

Nays – None

Motion carried.

Joseph & Sandra Pignataro, 30 Warren St.

Mr. Pignataro was sworn in, along with his architect, Robert Cezzarelli. The Board accepted Mr. Cezzarelli's qualifications.

Mr. Pignataro explained their proposal to construct a new front entry and rear and side access stairs. The house is over 100 years old, and he has lived there since 1988. They want to raise the house to 13.5' elevation, which will be compatible to others in the neighborhood. If they had a gable roof, instead of a flat roof, they wouldn't need to come before the Board. The garage will not be raised. The third floor has a storage area. The foundation will comply with the flood regulations. The flat roof was added to provide a master bedroom. The house is 2 ½ stories, with a loft area.

There were no questions or comments from the public. Mr. Pignataro said they have no plans for the garage.

Mr. Blum does not see an issue, and this was a conforming structure when it was built. They are raising a conforming structure to meet the flood elevation.

Mr. Duddy moved to approve the application, and Mr. Brodsky seconded.

Roll Call Vote: Ayes – Conklin, Brodsky, Blum, Seaman, Duddy, Sylvester

Nays – None

Motion carried.

Approval of Minutes

Mrs. Seaman moved to adopt the April 29th minutes, with corrections. Mr. Sylvester seconded. Voice Vote: Ayes, unanimous.

Mrs. Seaman moved to adopt the May 20th minutes, with corrections. Mr. Brodsky seconded. Voice Vote: Ayes, unanimous.

Resolutions

1. **Thomas & Jennifer Mullins, 16 Wilson Circle** – Approval to construct two-story front addition connecting residence to existing detached garage. Mrs. Seaman moved to adopt the resolution, and Mr. Brodsky seconded. Voice Vote: Ayes, unanimous.

There being no further business, motion was made and seconded to adjourn. Voice Vote: Ayes, unanimous. The meeting was adjourned at 10:00 p.m.

The next meeting will be **July 15, 2014.**

Respectfully submitted,

Patricia Murphy
Clerk